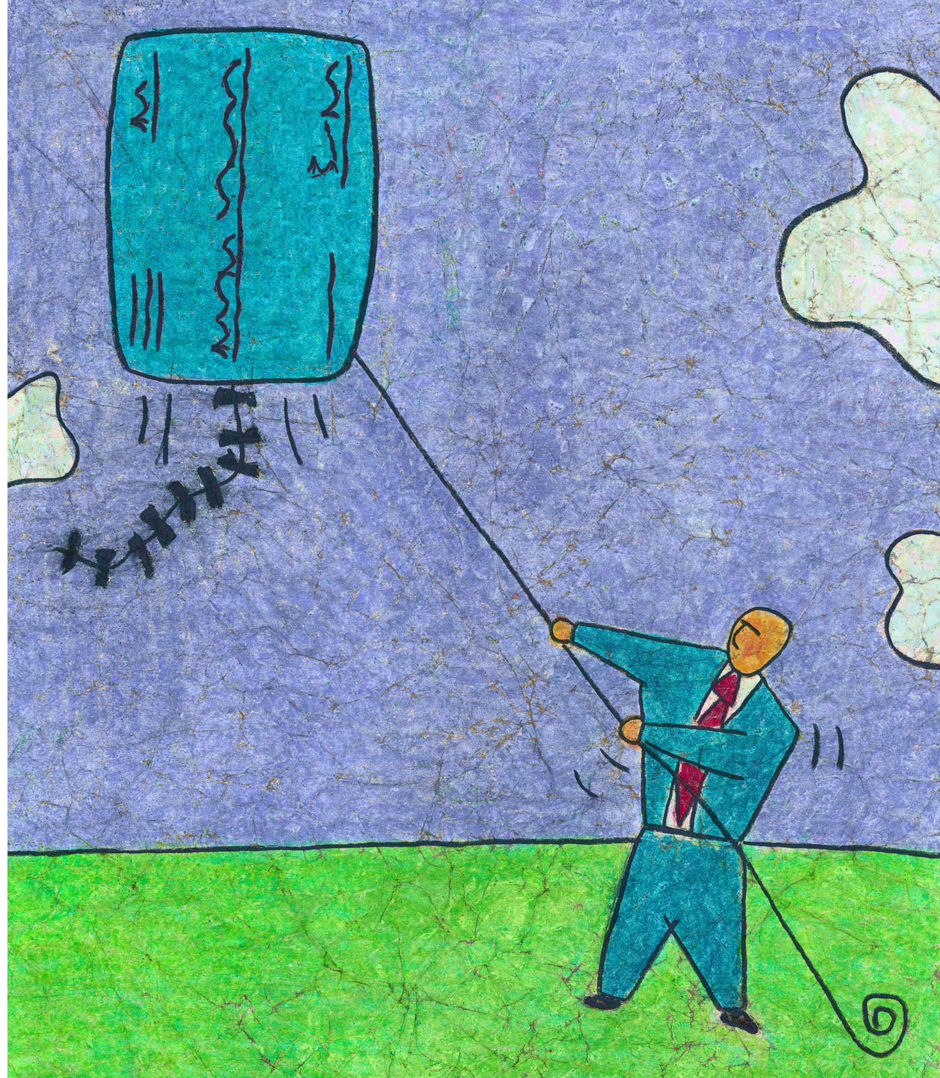
After the Crash:

Banking and the Criminal Implications of Check Kiting



The banking crisis of the past few years is not only the result of failures on Wall Street, but the result of check kiting schemes that range from actual criminal intent of the participants to negligent business practices of banks and customers. Not only have check kiting schemes led to massive losses to banks involved but they also have resulted in the "kiters" and bank officials being charged criminally and upon conviction receiving lengthy prison sentences. All bank officers and employees need to be trained to recognize check kiting schemes and the civil and criminal implications for the participants and the bank.

By David J. Grindle

United States v. Severson,[1] a recent decision by the Seventh Circuit that affirmed the conviction of a participant in a "check kiting" scheme that caused the failure of the First National Bank of Blanchardville, Wisc. (FNBB), highlights the intersection of banking law and criminal law.

In *Severson*, Bryan Severson was convicted for his role in a massive check kiting scheme that involved numerous customers as well as the bank president, Mark Hardyman. According to the court, the scheme "ultimately, had milked the bank dry."[2] The check kiting was the result of Hardyman's attempt to mask FNBB's massive losses from the bank's board of directors and from federal regulators. To hide FNBB's losses from authorities, Hardyman recruited bank employees and customers to participate in the scheme. Severson, a bank customer who owned a small tow truck company, had originally financed his business through FNBB. As his business grew, Severson started up other small business through similar financing he obtained from FNBB. Severson, however, was insolvent, constantly overdrawn, and behind in his loan payments. Even so, he continued to receive loans from FNBB.

To hide Severson's delinquent status and to improve FNBB's balance sheet, Hardyman asked Severson to continue to issue and deposit checks into Severson's various overdrawn checking accounts. In return, Severson was allowed to receive additional loans or receive the proceeds of loans given to his employees. In all, Severson wrote nine checks from overdrawn or closed checking accounts totaling $824,019.32. Hardyman arranged for the insolvent Severson to receive approximately $8.7 million in loans to cover the overdrafts, to purchase a racetrack, and to renew outstanding loans.

In May 2003, the Office of the Comptroller of Currency discovered the existence of the massive scheme.[3] FNBB was closed on May 9, 2003, and the Federal Deposit Insurance Corporation was appointed receiver. Severson, Hardyman, and businessman Dennis Said were indicted in the case.[4] Severson, the only defendant to go to trial, received a sentence of more than 11 years (140 months) imprisonment and was ordered to pay restitution in the amount $6,429,670.[5] Hardyman pled guilty and received a sentence of nine years (108 months) imprisonment and was ordered to pay restitution in the amount of $13,422,261.[6] Said pled guilty and received a sentence of a little more than eight years (100 months) imprisonment and was ordered to pay restitution in the amount of $3,445,981.77.[7]

Check Kiting

Check kiting is a form of bank fraud,[8] and federal courts have given various descriptions of what constitutes a check kiting operation.[9] The Seventh Circuit has explained the scheme as follows:

Check kiting involves the knowing drafting and

depositing of a series of overdraft checks between two or more federally insured banks with the purpose of artificially inflating bank balances so that checks can be drawn on accounts that actually have negative funds. If timed correctly, the bank will be prevented from discovering that the accounts are overdrawn and will be tricked into honoring checks drawn on accounts with insufficient funds. By repeating this scheme over a period of time a person in essence may obtain an interest-free loan.[10] (Citations omitted.)

As *Severson* illustrates, the scheme can become quite complex and cause serious financial harm to the banks affected. It is common for check kiters to seem to be good citizens, respected business owners, and bankers themselves.[11] It is not uncommon for the operation to involve hundreds of thousands of dollars, if not more.[12]

"Check kiting is possible because of a combination of two rules found in Article 4 of the Uniform Commercial Code [UCC]."[13] Pursuant to § 4-401 of the code a bank may allow a customer to write checks on an account where a deposit is pending but uncollected.[14] In addition, "under §§ 4-301 and 4-302 a payor bank must either pay or dishonor a check drawn on it by midnight of the second banking day following presentment."[15] Sections 4-301 and 4-302 are applied in conjunction with federal bank regulations and issued circulars.[16] If the check is not dishonored within the time period, the payor bank (the bank on which the check is drawn) is strictly liable for the amount of the check.

When a check kiting scheme is operating, the kiter writes a check on Bank A for deposit to an account he has at Bank B based on an "uncollected" deposit in Bank A. The kiter now has an "uncollected" deposit in Bank B. In the simplest of check kiting schemes (and the easiest to detect), the kiter writes a check on Bank B for deposit back into the account at Bank A before either deposit is collected. The process can involve more than two banks and one kiter. The result of the operation is a pool of money that is not based on a valid deposit and is floating between the banks—allowing the kiter to use the money as an interest-free loan.

The process continues until one of the banks dishonors a check drawn on its account. When a bank dishonors a check drawn on its account in a timely manner, the bank escapes liability for the check and the loss is borne by the bank that accepted and paid the check. Accordingly, the first bank caught up in a check kiting scheme to dishonor checks limits its losses to those checks already paid and not covered by paid deposits drawn on another bank or banks. The trailing bank or banks are left holding the ball and the remaining losses. A kiting scheme can collapse if a bank notices the suspicious pattern of deposits or if the kiter inadvertently fails to replenish one account with another kited check in the narrow window that §§ 4-301, 4-302, and 4-401 allow. Most losses occur after the scheme collapses and fall on banks that do not dishonor the checks in time. To analogize, for banks caught in a check kiting operation, it's like a game of musical chairs: when the music stops, one or more is left standing—and out in the cold.

Implications of Check Kiting for Banks

The most obvious implications for banks are the losses involved. Because of its nature, however, check kiting has consequences for banks aside from the immediate losses the banks suffer. Check kiting can affect—or should affect—bank policy concerning customer relations, monitoring, and relationships with other banks and the Federal Reserve.

As previously noted, a large check kiting operation often involves the bank's valued customers (and often insiders). The customers operate legitimate businesses and appear to have "high-dollar" accounts. A legitimate customer may become involved in a check kiting scheme because of a temporary business setback or as an actual business plan. In order to get over the hump, the customer, with the acquiescence or inadvertence of bank officers, begins to kite checks.

An extreme example of how check kiting develops into a business plan is found in the case of *Rogers v. McDorman*.[17] In *McDorman*, the board of directors of Mauriceville National Bank (MNB) sued the former bank officers and two customers for fraud and civil RICO violations. Robert McDorman, part owner of two used car lots, had a long-standing relationship with MNB. In December 1999, McDorman and an associate named Joe Penland opened another car lot. Penland contributed the capital and McDorman ran the operation. When the business began having a cash flow problem, Penland contributed more capital and took a larger ownership interest.

Before the influx of capital from Penland, McDorman began a check kiting scheme, which he considered "a loan arrangement with MNB—to cover short-term financing gaps."[18] The scheme moved money around through three banks: MNB, Community Bank, and SouthTrust Bank. According to the court, "[t]he scheme was not, however, a typical check-kite, as it used cashiers checks and, more important here, MNB actively participated in it."[19]

Deon Thorton, president and CEO of MNB directed MNB employees to assist McDorman in obtaining the cashiers checks and actually told the tellers to draw the checks. From October 2000 through January 2001, when the scheme was halted temporarily to allow bank examiners to conduct their annual audit, McDorman and MNB kited checks in the amount of $4 million. The operation resumed in March 2001 and continued until it collapsed on July 12, 2001. During that period, approximately $37 million more was kited. After the scheme collapsed, McDorman paid off most of the kited funds, but he was not able to pay off about $3.3 million, and that loss fell on MNB. Immediately afterward, federal regulators required the directors to recapitalize the bank by raising $2 million in capital.

The RICO trial revealed some other amazing facts. Even though it was the bank's board of directors that brought the suit, the evidence showed that the directors knew of the scheme and condoned it. At one point during the scheme, McDorman met with the board "to discuss whether McDorman might buy part of MNB."[20] During that meeting, McDorman thanked the board for the special

treatment he had received from the bank. The district court entered a "take nothing order" after a mixed jury verdict that found some of the defendants liable. The Fifth Circuit affirmed the decision, finding that the board of directors had been just as involved in the check kiting scheme as the defendants had been.

As *McDorman* illustrates, some customers and bank officers involved in check kiting believe that they are doing nothing wrong and are using legitimate business practices. Apparently, the bankers and customers involved in this case had some concerns, because there were attempts to hide the practice from bank regulators. Even so, the McDormans of the world apparently do not believe that they are doing anything morally wrong. Of course, other check kiters begin the operation with the sole purpose of engaging in fraud. So what is a bank to do?

As noted previously, the first problem for banks is the requirement to "pay or dishonor the check by midnight of the second banking day following presentment."[21] Because § 4-401 allows a bank to let a customer write a check when his or her account has insufficient funds to cover it, it is hard for a bank cashing the check to determine whether the transaction is legitimate or not. As shown in the cases discussed above, a bank will often cover deficiencies in a valued customer's account for a short period of time. When a check kiter presents Bank A a check that is drawn on an account from Bank B, it is hard for Bank A to know if the kiter has sufficient funds in Bank B without access to Bank B's records. As the court noted in *Colonial Bank*, "'there is no certain test that distinguishes one who writes many checks on low balances from a check kiter.'"[22]

Another problem facing banks is liability to a customer for wrongfully dishonoring checks. According to § 4-402(a), a bank is liable for wrongfully dishonoring a properly payable check. The bank could also be liable under common law for defamation for wrongfully dishonoring a check.

Colonial Bank[23] illustrates the problems banks have when facing a check kiting operation. In this case, the principals of Shelly Marketing opened a checking account with First National Bank and also opened a checking account with Family Bank a few months later. Soon thereafter, the principals of Shelly, using the name World Commodities Inc., opened a third account with Colonial Bank. Beginning in early 1991, Shelly and World Commodities began operating a check kiting scheme.

In February 1992, Shelly and World Commodities issued checks to each other on their respective banks. Shelly wrote 17 checks totaling $1,518,642.86 on its First National account to World Commodities. World Commodities deposited the checks into its Colonial account and wrote 13 checks totaling $1,523,892.49 to Shelly on the Colonial account that same day. Shelly deposited the checks into its First National account.

The next day, Tuesday, Feb.11, the checks drawn on each account were presented to the respective banks—First National checks to First National and Colonial checks to Colonial. An officer with First National noticed that Shelly's account showed huge fluctuations and became concerned that a kite might be operating. Later that day, First National froze Shelly's account at First National Bank.

The next morning, Wednesday, Feb. 12, officers with First National met and reviewed Shelly's account. They agreed that a check kiting scheme was possibly operating. First National decided not to honor the checks and to return the First National checks to Colonial. At approximately 2:45 p.m. that day, First National notified Colonial by Fed Wire that First National was returning the checks and indicated "refer to maker" as the reason for doing so. In compliance with Article 4 and Regulation CC, First National, refused to honor the checks by midnight of the second banking day.[24]

Meanwhile, Colonial received the Fed Wire from First National shortly after 2:45 p.m. on Wednesday. Randall Soderman, a Colonial officer, began an immediate investigation. Soderman knew that, if Colonial did not dishonor the Colonial checks by midnight, Colonial would be out the money. He also knew that if the checks were good, Colonial would risk offending a major customer.

Schiller, the Colonial officer in charge of the World Commodities account, called World Commodities' comptroller and attorney and asked them about the First National checks that had been returned. Both individuals assured Schiller that the checks were good and should be redeposited. Ultimately, Colonial's president and cashier decided not to return the Colonial checks by midnight on Wednesday. Instead, they decided to meet the next morning, Thursday, to discuss the matter.

The next morning, the Colonial officers decided to return the Colonial checks to First National. At about 10:45 a.m., an officer called First National to inform First National that Colonial was returning the checks to the Federal Reserve Bank. The checks were returned to the Reserve Bank and eventually to First National.

The return of the checks by each bank also triggered the Reserve Bank to credit and debit each bank's account for the amount of the checks. Though the outcome is unclear from the court's opinion, apparently, when First National returned the First National checks, it received a credit on its reserve account. When Colonial returned the Colonial checks, the Reserve debited First National in the amount of the Colonial checks. First National then filed an administrative challenge with the Reserve Bank related to the timeliness of Colonial's return of its checks.[25] As a result of the challenge, the Reserve Bank credited First National's account in the amount of $1,523,892.49 and debited Colonial's account the same amount. Colonial filed a response to the Reserve Bank's decision, and the Reserve Bank then reversed Colonial's debit and reversed First National's credit. As a result of the Reserve Bank's decision, First National filed suit against Colonial and the Reserve Bank.

The resulting litigation between the banks established that Colonial's failure to dishonor and return Colonial's checks in time made Colonial strictly liable for the face amount of the checks. To defend its actions, Colonial stated that it had acted in good faith, that a mistake had occurred, and that First National breached its duty to act in good faith by failing to disclose to Colonial that First

National suspected a check kiting operation. Citing the majority rule, the district court found that the UCC's good faith requirement did not excuse Colonial's failure to meet the deadline. In addition, the court found that the UCC does not impose a burden or duty on a bank to disclose suspicious activity to another bank other than through the dishonoring a bad check.

The court found that the crediting and debiting done by the Reserve Bank reflected the banks' actual losses or gains. Accordingly, Colonial was found liable for the face amount of the checks minus any recovery First National obtained from Shelly. In this particular case, Colonial was liable for $1,425,970.61 to First National. The question of prejudgment interest was left for later determination.

The state of the economy today means that there is a likelihood that many undiscovered check kiting schemes are operating at this very moment. Moreover, these schemes probably involve many bank officers and customers operating kites as "legitimate" business practices and believing that they are not violating the law. The problem with this business strategy is that check kiting not only violates principles of state and federal banking law but also can give rise to a civil action eligible for treble damages under RICO.[26] In addition, check kiting is a federal criminal offense that is subject to severe penalties.

Banks that are victims of check kiting schemes have several solutions, the most apparent being a combination of greater vigilance and willingness to take the chance of offending a major customer by dishonoring his or her checks. Greater internal supervision of large accounts is another solution. Of course, when the check kiting operation involves the bank's managers, this solution may not work; however, individual bank employees who are asked to participate in such schemes must be made aware through training that they are being asked to commit unlawful acts for which they personally may be held both civilly and criminally liable. Employees are required to disclose the suspicious activity to senior managers who are not involved in the scheme—and, if necessary, to law enforcement. Such employees must be made aware through training that, in the event a scheme collapses, new management or the FDIC may be in charge of the bank, and a bankruptcy trustee may be in charge of the customer, and they will not care that the employee was doing what former management wanted.[27]

With the collapse of banks as a result of bad loans in the past two years, banks should add check kiting to the list of issues management, employees, and banking associations should address. Perhaps there is a need to revamp Article 4 and the federal regulations to require competing banks to share more information when they suspect check kiting. The "musical chairs" approach to ending such schemes—whereby the first bank to dishonor checks leaves everyone else without a seat—discourages the sharing of information. This approach may even make it easier to operate a check kiting scheme and to do so longer, thereby increasing the losses suffered by a banking system that is already battered.

Implication for Bank Customers

Bank customers, including business customers, should realize that a check kiting scheme also has implications for them. If the customer is trying to operate a criminal enterprise, then he or she is aware of—or should be aware of—the criminal liability he or she is facing. However, as we have seen, many business owners innocently or inadvertently begin to kite checks to cover shortfalls in cash flow or to obtain an interest-free loan. Just as with a bank employee involved in the scheme, the customer faces civil and criminal liability when the check kiting operation crashes.

As illustrated in *McDorman*, McDorman believed that he was using legitimate business judgment when he kited checks totaling $41 million. At one point, he even thanked the board of directors for treating him so well; he was even considering buying part of the bank with the kited money. After the scheme crashed, McDorman became a defendant in a RICO lawsuit and was able to prevail on appeal only because the plaintiffs had been as involved in the scheme as McDorman had been. For some reason, McDorman was not prosecuted for bank fraud.

Section 1344 was amended in 1990 to increase the maximum penalty to 30 years imprisonment and a fine of one million dollars. Besides bank fraud, many prosecutors indict check kiters for mail and wire fraud,[28] conspiracy,[29] making of false statements,[30] fraudulent obtaining of a loan,[31] and other crimes. Many of these offenses call for a maximum penalty of 30 years imprisonment and a fine of one million dollars. Incidentally, each kited check can give rise to a separate count in the indictment.[32]

Congress intended to increase the maximum penalties

to encourage the U.S. Sentencing Commission to increase the guideline for white-collar crimes.[33] As this article illustrates, it is common for otherwise up-standing citizens to be sentenced to prison terms of 10 years or more for being involved in financial crimes. As the economy continues to stagnate and businesses and banks continue to fail, such prosecutions will increase.

Criminal Law Implications

Severson and *Colonial Bank* also illustrate an issue that criminal defense attorneys must face when representing clients accused of any kind of financial crime. What amount of loss is relevant for sentencing purposes?

As a result of the ruling handed down in *United States v. Booker*[34] in 2005, the district courts have greater discretion in imposing sentences. In that case, the U.S. Supreme Court found that the U.S. Federal Sentencing Guidelines are not mandatory and found that the portion of 18 U.S.C. § 3553 that required them unconstitutional. Instead, in *Booker*, the Court found that the guidelines are merely advisory, giving district courts substantial discretion in imposing sentences pursuant to the valid parts of 18 U.S.C. § 3553. However, the district courts are required to make findings pursuant to the guidelines before imposing a sentence.

The Federal Sentencing Guidelines require a determination of the "loss" in calculating the appropriate guideline range. As one can see from *Colonial* and the other cases, the actual loss to the victim banks may be greater or lesser than the face amount of the checks or the alleged kiting scheme. If a victim bank properly dishonors a check within the two-day period required, does it suffer a loss? In *Colonial*, First National's actual loss was attributable to the incorrect debiting of its account by the Reserve Bank. It appears, however, that if Colonial had not forced the issue First National would not have suffered the $1.5 million loss. Though not discussed in detail in *Colonial*, all the banks suffered some loss before the check kiting operation crashed. Accordingly, if there is no loss to the bank when it properly dishonors its checks, shouldn't the calculation of the loss that the guideline requires in a check kiting case be reduced by that amount?

Severson seems to indicate that the answer, at least for now, is "no." In *Severson*, the court stated that, "in determining 'Loss,' we consider the greater of the actual or intended loss."[35] Severson argued that the amount of the loss should be reduced by the amount of the collateral—the racetrack—that he had pledged a few months before the scheme came crashing down. The district court and the circuit court found that the mortgage did not show that Severson ever intended to pay back any of the money. Because a kite is essentially an illegal interest-free loan, "the idea of repayment was ridiculous."[36]

However, every criminal defense lawyer knows that a good argument at sentencing is always helpful. When representing a defendant accused of check kiting, it seems prudent to try to determine the actual losses the victim banks suffered. The scheme almost always crashes when a victim bank properly dishonors a check, thereby insulating the bank from suffering a loss on that check. In large check kiting operations, the amount of the loss could be in the hundreds of thousands of dollars. If a defendant can get the district court to accept the reduction as part of the calculation of the loss required by the guideline or as a factor in the court's § 3553 sentencing analysis, the benefits to the defendant could be enormous. Remember, after the *Booker* decision, the district court's factual findings at sentencing are reviewed for *clear error* only. **TFL**

David J. Grindle is counsel at James, Bates, Pope & Spivey LLP in Macon, Ga. He has tried more than 30 civil and criminal cases to a conclusion in both the state and federal trial and appellate courts of Georgia and Illinois. A graduate of Mercer University School of Law, Grindle clerked for Hon. Albert Henderson of the U.S. Court of Appeals for the Eleventh Circuit and Hon. W. Louis Sands of the U.S. District Court for the Middle District of Georgia.

Endnotes

[1]*United States v Severson*, 569 F.3d 683 (7th Cir 2009).

[2]*Id.* at 685.

[3]*Id.*; *Failed Bank Information*, available at www.fdic.gov/bank/individual/failed/blanchardville.html.

[4]*Blanchardville Businessman Admits to Writing $15M in Bad Checks, Connection in Loan Fraud*, Capital Times, available at www.madison.com/tct/news/298678 (last visited July 30, 2008).

[5]*United States v. Hardyman*, 3:2006cr0077 (W.D. Wis. 2006). Hardyman entered a plea of guilty to one count of bank fraud on May 1, 2006, and judgment was entered on his sentence on July 25, 2006.

[6]*Severson*, 569 F.3d 683; *Blanchardville Businessman Admits to Writing $15M in Bad Checks*, *supra*, note 3.

[7]*United States v. Dennis O. Said*, 3:2008cr0024 (W.D. Wis. 2008). Said pled guilty to one count of bank fraud and one count of embezzlement. He entered his guilty plea on July 30, 2008, and judgment was entered on his sentence on Oct. 24, 2008.

[8]18 U.S.C. § 1344; *First National Bank in Harvey v. Colonial Bank*, 898 F. Supp. 1220 (N.D. Ill. 1995). Section 1344 is a criminal statute for which there is no private cause of action per se, but violations of § 1344 are among the predicate crimes that can result in a "pattern of racketeering activity" giving rise to a civil action under 18 U.S.C. §§ 1961(1)–(5), 1962 and 1964 of the Racketeer Influence and Corrupt Organizations Act (RICO).

[9]*Williams v. United States,* 458 U.S. 279 (1982); *In re Cannon*, 277 F.3d 838 (6th Cir 2002).

[10]*United States v. LeDonne*, 21 F.3d 1418, 1425 n.2 (7th Cir 1994).

[11]*Williams*, 458 U.S. 279 (bank president); *Severson*, 569 F.3d 683 (bank president and local business owners);

CHECK KITING *continued on page 32*

mentors to remain positive. "We have a lot of faith in the future," Trafford said. "But it's so hard. We are not here to find them jobs but it is the elephant in the room and you can't help wanting to help them."

Both Trafford and Ransier admit that they benefit from being mentors perhaps as much as the new lawyers who come to them for advice. Trafford said, "When I engage in mentoring, it reinvigorates why I entered the profession by seeing it through somebody else's eyes. It gives me a chance to reflect on the profession." With a smile in her voice, she adds that the fresh outlook of new lawyers "makes me sort of jealous." Ransier believes mentoring has given him license to let his mind revisit the early years of his practice, when he opened a law firm with his wife, Kathy. "We were very green," remembers Ransier. "We would confer with each other. The solution might have been easy but the anxiety of not knowing was great."

The Cutting Edge of a National Trend

Ohio is a national leader in developing, implementing, and enlarging its mentoring program, and its model has been used by a number of other states that are now gravitating toward this format. Only three states at present—Ohio, Georgia, and Utah—have permanent statewide, centrally administered mentoring programs that are a component of the required continuing legal education of their new lawyers. Whereas Georgia and Utah mandate participation by their new lawyers, Ohio's program is voluntary. Ohio's new lawyers who choose not to enroll in mentoring may obtain their required new lawyers' training credit by attending new lawyers training classes. Kentucky and South Carolina are in the midst of pilot programs that mandate mentoring for new lawyers. Later this year, the Maryland Professionalism Commission will recommend that the Maryland Court of Appeals adopt a pilot mentoring program that will be voluntary for their beginning lawyers. Other states have mentoring initiatives in various stages of development and participation. (For a complete list, see www.abanet.org/cpr/professionalism/mentoring.html.)

Georgia was the first state to implement a statewide mandatory mentoring program for new lawyers. According to Douglas Ashworth, the director of Georgia's Transition into Law Practice Program, mentoring got its start after "enough leaders of Georgia's bench and bar got mad about a growing lack of professionalism and civility." Georgia's leaders saw mentoring as a way to protect the public and the profession from incompetence and lack of civility by instilling the values of professionalism at the beginning of a lawyer's practice. Ashworth reports that new lawyers and mentors alike highly value their participation in mentoring. As one new lawyer expressed, the program gave her "a safe place to ask a stupid question." Mentors have attested that their experiences "reaffirmed their faith in the profession."

Tracy Gruber, administrator of the New Lawyer Training Program for the state of Utah, explained that Utah followed the "general drumbeat of other states" when it recently decided to mandate mentoring for its new lawyers. As one Utah mentor articulates in the state's online mentor recruitment video, "My hope is that through mentoring we can transfer values of significance—values of civility and courtesy and respect for other people and excellence in the profession. All of those things combined [are] what makes a great lawyer."

In Texas, a mentoring program that began at the Dallas Bar Association is being replicated by other local bar associations in the state. Justice Douglas S. Lang of the Court of Appeals for the Fifth District in Texas was integral to the development of the Texas Transition to Practice Program and credits Roland Johnson, president of the State Bar of Texas, for making this program a high priority. Justice Lang reports that mentors uniformly love the opportunity to participate and believe that they are providing an invaluable service for new lawyers. The new lawyers' reception of the program has also been very positive. For the new lawyer it is "like the sun came out on a cloudy day," explains Justice Lang. The program successfully shows new lawyers what goes on in the profession in a way that law school simply cannot. Justice Lang asserts that the Texas mentoring program is especially important in the current economic climate, as new lawyers are finding it more difficult to find legal positions upon graduation from law school. New lawyers who have been unable to secure employment in the legal field have called participation in the program "a life-changing experience" that allowed them to start developing a professional network beyond their college and law school friends and boosted their confidence that there was opportunity in the profession.

The value and importance of mentoring to the legal profession was evident at a national conference focusing on attorney mentoring sponsored by the Nelson Mullins Riley & Scarborough Center on Professionalism and the University of South Carolina School of Law. Held this past April and hosting attendees from 22 states, this conference addressed the best practices for establishing, administering, and evaluating mentoring programs. Participants included judges, practicing lawyers, law school professors, representatives from state professionalism commissions, and members of the Inns of Court. Undeniably, enthusiasm for attorney mentoring is gaining momentum nationwide.

Ohio's Success Story

The Supreme Court of Ohio could not be more proud of this program or more pleased with its results. The best description of these results comes from the comments of participants who promote the concept every chance they get. The mentors are renewed and enthusiastic about participating. Most satisfying for the court and the Commission on Professionalism are the statistical results, which speak for themselves. At this point, almost 600 new attorneys in Ohio are being mentored, and the program continues to grow. Beginning in January 2011, we expect to have more than 2,000 Ohio attorneys involved and active in this effort. New lawyer survey results reveal the following:

- 99 percent would recommend the program to other new lawyers;
- 96 percent believed that they would maintain a